

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

MDL No. 3084

This Order Relates To:

All Actions

**PRETRIAL ORDER NO. 21:
BELLWETHER SELECTION
PROCESS AND SCHEDULING
ORDER**

At a Case Management Conference on November 6, 2024, the Court ordered the parties to file a joint statement of their views on the bellwether selection process. The parties submitted that joint statement on December 4, 2024, offering competing proposals for the selection process and accompanying schedule. Dkt. 1934. Having carefully considered the parties' proposals, the Court establishes the following procedures and schedule.

1. Bellwether Eligibility

The parties offer opposite answers for the question of which cases should be eligible for selection as bellwethers: Plaintiffs would only include those cases that do not have a *Lexecon* issue (*i.e.*, either be filed in the Northern District of California originally, or have indicated in their short form or amended short form complaint that they would have filed in the Northern District of California in the absence of direct filing) and have completed their Plaintiff and Defense Fact Sheet exchanges. Uber, on the other hand, believes neither factor should be used as an eligibility filter.

1 The Court agrees with Plaintiffs. The Court's goal in managing the bellwether
2 process is to efficiently bring representative cases to trial. Including cases in the
3 bellwether process that this Court is unlikely to have jurisdiction over does not advance
4 that goal. Regarding fact sheet exchanges, Uber has provided no compelling reason to
5 delay the selection of cases until more fact sheets have been exchanged, or to believe that
6 the 1,031 cases for which Plaintiff Fact Sheets have been submitted somehow misrepresent
7 the full roster of cases in the MDL.

8 Therefore, the Court adopts Plaintiffs' proposal: to be eligible for selection, a case
9 must, as of January 31, 2025, (1) not have a *Lexecon* issue, as described above; and (2)
10 have completed their Plaintiff and Defense Fact Sheet exchanges.

11 **2. Bellwether Selection Process**

12 The parties propose two very different procedures for selecting bellwether cases.
13 Uber proposes randomly selecting 50 cases for an initial "bellwether pool" in January
14 2025. The cases in that pool would engage in limited discovery until June 1, 2025, when
15 the parties would each propose 10 cases for selection as bellwether cases. Plaintiffs
16 propose a simpler plan which strips out the additional period of discovery and has the
17 parties each file a list of 10 Plaintiffs for inclusion as bellwether cases in February, which
18 would then be subject to a striking procedure of up to four cases per side.

19 Given the fact sheet exchange eligibility requirement, the Court sees no need for an
20 extended period of targeted discovery before bellwether selection. Nor does the Court see
21 a need for a striking procedure. Instead, by **February 14, 2025**, the parties will each select
22 ten Plaintiffs to be included in the bellwether process. In the event that a proposed
23 Plaintiff refuses to participate as a bellwether, the Defendant may select a substitute
24 Plaintiff. The "refusing Plaintiff" will be subject to a motion to dismiss for failure to
25 prosecute.

26 **3. Amended Complaints**

27 The twenty Bellwether Plaintiffs will file amended complaints by **March 14, 2025**.
28

4. Multi-Plaintiff Waves

The parties also diverge on whether the Bellwether cases should proceed through discovery and trial individually or grouped in waves. Plaintiffs prefer a wave structure, while Uber argues it will be prejudiced by multi-plaintiff trials and proposes that trial selections should be made sometime in the summer or fall. Both parties ask for an opportunity to brief the issue, if the Court disagrees with their position.

For the purposes of discovery, all Bellwether Cases shall have the same deadlines. But for trial, the parties may submit letter briefs by **April 1, 2025**, on whether the Bellwether Cases should be tried individually or consolidated in some manner.

5. Discovery and Trial Schedule for Bellwether Cases

- a. Case specific discovery will open for Bellwether Cases on **March 14, 2025**.
- b. By **April 15, 2025**, Uber shall file its Rule 12 motions against the amended complaints. Bellwether Plaintiffs shall file their oppositions by **May 15, 2025**. Uber shall file any replies in support by **June 2, 2025**.
- c. Fact discovery will be substantially complete by **June 16, 2025**.
- d. By **July 3, 2025**, the parties shall submit letter briefs identifying the order in which the Bellwether Cases should be tried, including wave assignments if the Court orders waves to be formed.
- e. The parties shall exchange expert reports by **August 8, 2025**. The parties shall exchange rebuttal expert reports by **September 8, 2025**.
- f. Discovery will close on **September 22, 2025**.
- g. The parties shall file any *Daubert* or dispositive motions by **October 8, 2025**. The parties shall file oppositions to any *Daubert* and dispositive motions by **November 11, 2025**. The parties shall file replies in support of any *Daubert* and dispositive motions by **November 24, 2025**.
- h. The final pretrial conference for the first bellwether trial will be held on **December 1, 2025**.

i. The first bellwether trial will begin **December 8, 2025**.

6. Table of Dates

Deadline	Event
February 14, 2025	Parties shall submit their selections for Bellwether Cases
March 14, 2025	Bellwether Plaintiffs shall submit amended complaints Case-specific discovery opens for the Bellwether Cases
April 1, 2025	Parties shall submit letter briefs on whether the Bellwether Cases should be tried individually or in waves
April 15, 2025	Rule 12 motions to dismiss amended complaints
May 15, 2025	Oppositions to Rule 12 motions to dismiss amended complaints
June 2, 2025	Replies in support of Rule 12 motions to dismiss amended complaints
June 16, 2025	Substantial completion of fact discovery
July 3, 2025	Parties shall submit letter briefs identifying the order in which the Bellwether Cases should be tried, including wave assignments if the Court orders waves to be formed
August 8, 2025	Parties shall exchange expert reports
September 8, 2025	Parties shall exchange rebuttal expert reports
September 22, 2025	Close of discovery

October 8, 2025	<i>Daubert</i> and dispositive motions
November 11, 2025	Oppositions to <i>Daubert</i> and dispositive motions
November 24, 2025	Replies to <i>Daubert</i> and dispositive motions
December 1, 2025	Final pretrial conferences for first trial
December 8, 2025	First Bellwether Trial

IT IS SO ORDERED.

Dated: December 12, 2024



CHARLES R. BREYER
United States District Judge